IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

PATRICK JEROID JONES	§	
VS.	§	CIVIL ACTION NO. 5:09cv24
NATHANIEL QUARTERMAN	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Patrick Jeroid Jones, an inmate at the Hughes Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court heretofore referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends petitioner's motion to proceed *in forma pauperis* be denied and petitioner be ordered to pay the \$5.00 filing fee.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.¹

Petitioner filed objections to the magistrate judge's separate report recommending dismissal of the petition as barred by limitations. In his objections to the report, petitioner stated he "does not object to the payment - immediately - of the \$5.00 filing fee." However, petitioner also prays that the court grant him *in forma pauperis* status. To the extent petitioner's assertions may be construed as objections to this report, such objections are overruled because petitioner does not assert he lacks the funds to pay the \$5.00 filing fee.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. It is therefore,

ORDERED that petitioner's motion to proceed *in forma pauperis* is **DENIED**. It is further **ORDERED** that petitioner shall, within thirty (30) days from the date of this order, pay the \$5.00 filing fee for this action. Petitioner's failure to pay the filing fee as ordered may result in the dismissal of this petition for want of prosecution pursuant to FED. R. CIV. P. 41(b).

SIGNED this 3rd day of August, 2009.

DAVID FOLSOM

UNITED STATES DISTRICT JUDGE